

§ 891.320 Site and neighborhood standards.

In addition to the requirements in § 891.125 and § 891.680, if applicable, the following site and neighborhood requirements apply to the Section 811 Program:

(a) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for very low-income workers (or low-income workers, as applicable), must not be excessive.

(b) Projects should be located in neighborhoods where other family housing is located. Projects should not be located adjacent to the following facilities, or in areas where such facilities are concentrated: schools or day-care centers for persons with disabilities, workshops, medical facilities, or other housing primarily serving persons with disabilities. Not more than one group home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

§ 891.325 Lead-based paint requirements.

The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, and R of this title apply to the Section 811 program and to projects funded under §§ 891.655 through 891.790.

[64 FR 50228, Sept. 15, 1999]

EFFECTIVE DATE NOTE: At 64 FR 50228, Sept. 15, 1999, § 891.325 was revised, effective Sept. 15, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 891.325 Lead-based paint requirements.

In addition to the other Federal requirements described in § 891.155, the following lead-based paint requirements apply to the Section 811 Program and to projects funded under §§ 891.655 through 891.790:

(a) The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR part 35 (except as superseded in paragraph (b) of this section) apply to the dwellings (except zero-bedroom dwelling units or

units that are certified by a qualified inspector to be free of lead-based paint or the lead-based paint hazards have been eliminated) in housing assisted under this subpart and to projects funded under §§ 891.655 through 891.790 that:

(1) Were constructed before 1978; and

(2) In which any child under 6 years of age resides or is expected to reside.

(b)(1) This paragraph (b) implements the provisions of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821 et seq., by establishing procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to covered structures for which assistance is provided under the Section 811 Program and under §§ 891.655 through 891.790. This paragraph (b) is promulgated under 24 CFR 35.24(b)(4) and supersedes, with respect to these programs, the requirements prescribed in subpart C of 24 CFR part 35.

(2) The following definitions apply to this section:

Applicable surface means all intact and non-intact painted interior and exterior surfaces of a residential structure.

Chewable surface means all protruding painted surfaces up to five feet from the floor or ground, that are readily accessible to children under 6 years of age, e.g., protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surfaces means a surface on which the paint is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level or EBL means excessive absorption of lead: that is, a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive tests 3-4 months apart.

Lead-based paint means a paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm² (milligram per square centimeter) or .5 percent by weight or 5000 parts per million (PPM).

(3) In the case of a structure constructed before 1978, the Sponsor must inspect the structure for defective paint surfaces before it submits site information. If defective paint surfaces are found, treatment in accordance with paragraph (a)(5) of this section is required. Correction of defective surfaces found during the initial inspection must be completed before initial occupancy of the project. Correction of defective paint conditions discovered at periodic inspection must be completed within 30 calendar days of their discovery. When weather conditions prevent completion of repainting of exterior surfaces within the 30-day period, repainting may be delayed, but covering or removal of the defective paint must be completed within the prescribed period.

(4) In the case of a structure constructed before 1978, if the Owner (or Borrower, if applicable) is presented with test results that indicate that a child under the age of 6 years occupies the structure and has an elevated blood lead level (EBL), the Owner (or Borrower, if applicable) must cause the unit to be tested for lead-based paint on chewable surfaces. Testing must be conducted by a State or local health or housing agency, by an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content shall be tested by using an X-ray fluorescence analysis (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, covering or removal of the paint surface in accordance with paragraph (a)(5) of this section is required and treatment shall be completed within the time limits in paragraph (b)(3) of this section.

(5) Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:

(i) A defective paint surface shall be treated if the total area of defective paint on a component is:

(A) More than 10 square feet on an exterior wall;

(B) More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors, and interior walls; or

(C) More than 10 percent of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, window sills, baseboards and trim.

(ii) Acceptable methods of treatment are: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infra-red or coil type heat gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydroblasting or high pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joints and edges sealed and caulked as needed to prevent the escape of lead contaminated dust.

(iii) Prohibited methods of removal are: open flame burning or torching; machine sanding or grinding without a HEPA exhaust; uncontained hydroblasting or high pressure wash; and dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totalling no more than twenty square feet on exterior surfaces.

(iv) During exterior treatment, soil and playground equipment must be protected from contamination.

(v) All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution.

(vi) Waste and debris must be disposed of in accordance with all applicable Federal, State and local laws.

(6) In lieu of the procedures set forth in the preceding clause, the Owner (or Borrower, if applicable) may, at its discretion, abate all interior and exterior chewable surfaces in accordance with the methods set out paragraph (a)(5) of this section.

(7) The Owner (or Borrower, if applicable) must take appropriate action to protect tenants from hazards associated with abatement procedures.

(8) The Owner (or Borrower, if applicable) must keep a copy of each inspection report for at least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the Owner must keep the test results, and, if applicable, the certification of treatment indefinitely. The records must indicate which chewable surfaces in the units have been tested or treated. If records establish that certain chewable surfaces were tested, or tested and treated, in accordance with the standards prescribed in this section, these surfaces do not have to be tested or treated at any subsequent time.

Subpart D—Project Management

§ 891.400 Responsibilities of owner.

(a) *Marketing.* (1) The Owner must commence and continue diligent marketing activities not later than 90 days before the anticipated date of availability of the first unit or occupancy of the group home. Market activities shall include the provision of notices of the availability of housing under the program to operators of temporary housing for the homeless in the same housing market.

(2) Marketing must be done in accordance with a HUD-approved affirmative fair housing marketing plan and all Federal, State or local fair housing and equal opportunity requirements. The purpose of the plan and requirements is to achieve a condition in which eligible households of similar income levels in the same housing market area have a like range of housing choices available to them regardless of